

REMARKS

Applicant thanks the Examiner and the Examiner's supervisor for the courtesies extended to Applicant's representative during the interview on March 13, 2008. During that interview, the rejections contained in the Office Action mailed on January 29, 2008, were discussed. The substance of the interview is incorporated into this response.

In the Office Action,¹ the Examiner objected to the drawings; rejected claims 1-38 under 35 U.S.C. § 112, second paragraph; rejected claims 1-10, 12-28, and 30-38 under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 5,742,775 to King ("King") in view of U.S. Patent No. 5,878,404 to Stout, Jr. et al. ("Stout"); and rejected claims 11 and 29 under 35 U.S.C. § 103(a) as being unpatentable over King in view of Stout, and further in view of a publication titled "Annuities and Bond Discount" by R. J. Bennett ("Bennett").²

Applicant respectfully traverses the above-mentioned objection and rejections. However, in this response, Applicant amends claims 1, 5, 9, 10, 12, 14, 21, 22, 23, 27, 28, 30, 33, 37, and 38; and cancels claims 8, 26, and 36 to expedite prosecution of this application, but without acceding to the outstanding rejections. Claims 1-7, 9-25, 27-35, 37-42 are pending, with claims 39-42 withdrawn from consideration.

I. Objection to the Drawings

The Examiner objected to the drawings, stating that reference characters "1500" and "1610" are not shown in Fig. 4 and that reference character 1620 is not described in the specification. (Office Action at 2-3). Applicant respectfully traverses these

¹ The Office Action contains a number of statements reflecting characterizations of certain references and claims. Regardless of whether any such statement is identified herein, Applicant declines to automatically subscribe to any statement or characterization in the Office Action.

² The Examiner's rejection cites to "NPL." (Office Action at 10). Applicant assumes that "NPL" refers to Bennett, as cited in the Notice of References Cited.

objections. Applicant notes that reference character 1500 appears in Fig. 4 just above the word "Fig. 4." In addition, Applicant has amended paragraph 043 of the specification to recite "1620," rather than "1610," as illustrated in Fig. 4, to obviate the objection. Accordingly, Applicant respectfully requests that the Examiner reconsider and withdraw the objections to the drawings.

II. Rejection Under 35 U.S.C. § 112, Second Paragraph

Claims 1-38 were rejected under 35 U.S.C. § 112, second paragraph. Applicant respectfully traverses this rejection. Regarding claims 1, 5, 14, 21, 22, 23, and 33, the Examiner alleges: "the phrase 'such that' renders the claim indefinite;" regarding claims 1, 22, 23, and 33, the Examiner alleges: "[i]t is unclear how possible is it to determine the difference between three different elements 'fixed payment', 'principal' and 'interest amount;'" and regarding claims 12, 13, 14, 30, and 31, the Examiner alleges: "[i]t is unclear whether the revised interest rate is increasing or only decreasing." (Office Action at 4). As agreed during the Interview, Applicant amends claims 1, 5, 14, 21-23, and 33 to obviate these rejections. Applicant therefore respectfully requests that the Examiner withdraw the rejection of claims 1-38 under § 112, second paragraph.

III. Prior Art Rejections

Applicant respectfully traverses the rejection of claims 1-10, 12-28, and 30-38 under 35 U.S.C. § 103(a) as being unpatentable over King in view of Stout. A *prima facie* case of obviousness has not been established at least because the differences between the prior art and Applicant's claims are such that it would not have been obvious for one of ordinary skill in the art at the time of the invention to modify the prior art to arrive at Applicant's claimed invention.

Independent claim 1, for example, recites a method for providing a mortgage including receiving a fixed payment for the mortgage, the fixed payment being based on an initial interest rate serving as a maximum interest rate; qualifying, when a current interest rate has declined, a revised interest rate that is lower than the maximum interest rate, wherein qualifying includes determining the revised interest rate and evaluating at least one of a loan to value ratio, an appraisal of a property, and a credit history; determining, when the current interest rate has increased, the revised interest rate, wherein the revised interest rate does not exceed the maximum interest rate; determining a principal and interest amount based on the revised interest rate; determining a difference between the fixed payment and a sum of the principal and interest amount; and paying the mortgage based on the difference. Neither King nor Stout, taken individually or in combination, teaches or suggests the combination of features recited in claim 1.

King discloses an adjustable rate loan system, where a “maximum rate cap” is established “at which the financed activity would experience difficulty in repayment if sustained for a prolonged period.” (King, col. 8:25-29). Although King may establish a “maximum rate cap,” King is unrelated to “providing a mortgage,” as required by claim 1. Moreover, King does not qualify “a revised interest rate . . . [by] evaluating at least one of a loan to value ratio, an appraisal of a property, and a credit history,” as recited by claim 1.

Stout fails to cure the deficiencies of King. Stout discloses a method for lowering interest rates, but does not teach or suggest a revised interest rate that may increase up to a “maximum interest rate,” as recited by claim 1. Further, Stout merely allows a

borrower to request a lower interest rate. (Stout, col. 5:1-9). If the borrower is current on their payments, Stout grants the request to lower an interest rate. (Stout, col. 6:30-31). That is, Stout does not teach or suggest “qualifying, when a current interest rate has declined, a revised interest rate that is lower than the maximum interest rate, wherein qualifying includes determining the revised interest rate and evaluating at least one of a loan to value ratio, an appraisal of a property, and a credit history,” as recited by claim 1 (emphasis added). Accordingly, the method of Stout fails to provide security to a lender in two ways: Stout does not allow interest rates to increase, and Stout does not evaluate the credit worthiness of a transaction before lowering interest rates.

Because neither King nor Stout, taken individually or in combination, teaches or suggests the combination of features recited by claim 1, no *prima facie* case of obviousness has been established for claim 1. Independent claims 22, 23, and 33, although of different scope than claim 1, patentably distinguish from King and Stout for at least the same reasons as claim 1. Claims 2-7, 9, 10, 12-22, 24, 25, 27, 28, 30-32, 34, 35, 37, and 38 depend from independent claims 1, 23, or 33, and therefore include all of the features recited therein. Accordingly, claims 2-7, 9, 10, 12-22, 24, 25, 27, 28, 30-32, 34, 35, 37, and 38 patentably distinguish from King in view of Stout for at least the same reasons as those stated above with respect to claims 1, 23, and 33. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the rejection of pending claims 1-7, 9, 10, 12-25, 27, 28, 30-35, and 37-38 under § 103(a) as being unpatentable over King in view of Stout.

Applicant also respectfully traverses the rejection of claims 11 and 29 under 35 U.S.C. § 103(a) as being unpatentable over King in view of Stout, and further in view of

Bennett. A *prima facie* case of obviousness has not been established at least because the differences between the prior art and Applicant's claims are such that it would not have been obvious for one of ordinary skill in the art at the time of the invention to modify the prior art to arrive at Applicant's claimed invention.

Specifically, claims 11 and 29 depend from independent claims 1 and 23 and therefore include all of the features recited therein. Bennett fails to cure the deficiencies of King and Stout discussed above with respect to claims 11 and 29, nor does the Examiner rely on Bennett for such teachings. Accordingly, because the cited references, taken individually or in combination, fail to teach or suggest the combination of features required by claims 11 and 29, no *prima facie* case of obviousness has been established for claims 11 and 29. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the rejection of claims 11 and 29 under § 103(a).

IV. Conclusion

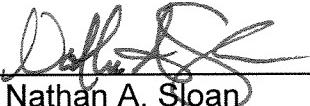
In view of the foregoing, Applicant respectfully requests reconsideration of this application and the timely allowance of the pending claims. Should the Examiner continue to dispute the patentability of the claims after consideration of this Reply, Applicant encourages the Examiner to contact Applicant's undersigned representative by telephone to discuss any remaining issues or to resolve any misunderstandings.

Please grant any extensions of time required to enter this response and charge
any additional required fees to our deposit account 06-0916.

Respectfully submitted,

FINNEGAN, HENDERSON, FARABOW,
GARRETT & DUNNER, L.L.P.

Dated: April 28, 2008

By: 
Nathan A. Sloan
Reg. No. 56,249
404.653.6464